

**REPORT OF THE AUDIT OF THE
FORMER BUTLER COUNTY
SHERIFF**

**For The Year Ended
December 31, 2006**



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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE FORMER BUTLER COUNTY SHERIFF

**For The Year Ended
December 31, 2006**

The Auditor of Public Accounts has completed the former Butler County Sheriff's audit for the year ended December 31, 2006. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$618 from the prior year, resulting in excess fees of \$10,157 as of December 31, 2006. Revenues increased by \$19,540 from the prior year and expenditures increased by \$18,922.

Report Comments:

- The Former Sheriff Should Have Determined The Status Of Contract Labor
- The Former Sheriff Should Have Complied With Federal And State Wage And Hour Laws
- The Former Sheriff Should Have Invested Monies In Interest-Bearing Bank Accounts
- The Former Sheriff's Office Lacked Adequate Segregation of Duties

Deposits:

The former Sheriff's deposits were insured and collateralized by bank securities.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable David Fields, Butler County Judge/Executive
The Honorable Kenneth Morris, Former Butler County Sheriff
The Honorable Joe Gaddie, Butler County Sheriff
Members of the Butler County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the former Sheriff of Butler County, Kentucky, for the year ended December 31, 2006. This financial statement is the responsibility of the former Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the former Sheriff for the year ended December 31, 2006, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated August 22, 2007 on our consideration of the former Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable David Fields, Butler County Judge/Executive
The Honorable Kenneth Morris, Former Butler County Sheriff
The Honorable Joe Gaddie, Butler County Sheriff
Members of the Butler County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The Former Sheriff Should Have Determined The Status Of Contract Labor
- The Former Sheriff Should Have Complied With Federal And State Wage And Hour Laws
- The Former Sheriff Should Have Invested Monies In Interest-Bearing Bank Accounts
- The Former Sheriff's Office Lacked Adequate Segregation of Duties

This report is intended solely for the information and use of the Sheriff and Fiscal Court of Butler County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

August 22, 2007

BUTLER COUNTY
KENNETH MORRIS, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2006

Revenues

State - Kentucky Law Enforcement Foundation Program Fund	\$	12,081
State Fees For Services:		
Finance and Administration Cabinet	\$	17,085
Sheriff Security Service (HB 452)	<u>10,853</u>	27,938
Circuit Court Clerk:		
Fines and Fees Collected		7,130
Fiscal Court		128,096
Butler County School Board		20,984
County Clerk - Delinquent Taxes		1,067
Commission On Taxes Collected		99,539
Fees Collected For Services:		
Auto Inspections	4,860	
Serving Papers	17,330	
Carrying Concealed Deadly Weapon Permits	<u>2,650</u>	24,840
Other:		
Tax Penalty/Advertising Fees		18,784
Housing Reimbursement		13,196
Miscellaneous		2,419
Interest Earned		763
Borrowed Money:		
State Advancement		<u>35,000</u>
Total Revenues		<u>391,837</u>

The accompanying notes are an integral part of this financial statement.

BUTLER COUNTY
KENNETH MORRIS, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2006
(Continued)

Expenditures

Operating Expenditures:

Personnel Services-

Deputies' Salaries \$ 137,660

Part-Time Salaries 31,987

Other Salaries 29,663

Employee Benefits-

Employer's Share Social Security 18,053

Contracted Services-

Vehicle Maintenance and Repairs 424

Supplies and Materials-

Office Materials and Supplies 1,390

Uniforms 575

Auto Expense-

Gasoline 20,252

Mileage/Transporting 8,199

Other Charges-

Postage 3,289

Phone and Internet 3,905

Training Expense 2,269

Carrying Concealed Deadly Weapon Permits 2,125

School Resource Officer Paid to Incoming Sheriff 10,492

Miscellaneous 3,754 \$ 274,037

Debt Service:

State Advancement 35,000

Total Expenditures 309,037

Net Revenues 82,800

Less: Statutory Maximum 69,341

Excess Fees 13,459

Less: Training Incentive Benefit 3,302

Excess Fees Due County for 2006 10,157

Payments to Fiscal Court - April 6, 2007 1,905

- August 8, 2007 7,877

- August 22, 2007 375 10,157

Balance Due Fiscal Court at Completion of Audit \$ 0

The accompanying notes are an integral part of this financial statement.

BUTLER COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2006

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2006 services
- Reimbursements for 2006 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2006

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

BUTLER COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2006
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 10.98 percent for the first six months and 13.19 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The former Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the former Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The former Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2006, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

BUTLER COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2006
(Continued)

Note 4. Drug Account

During 2006, under the terms stipulated by the United States Department of Justice and the Commonwealth of Kentucky, the former Sheriff's office received proceeds from the confiscation, surrender, or sale of real and personal property involved in drug related convictions. These funds are to be used for law enforcement activities. As of January 1, 2006, this account had a balance of \$4,756. The Drug Prevention Account transferred \$758 into this account in July 2006. During 2006, funds of \$29,448 were received and \$30,874 were expended, leaving a balance of \$4,088 as of December 31, 2006. On January 26, 2007, a payment of \$4,088 was made to Joe Gaddie, the current Sheriff, to transfer the balance of the Drug Account.

Note 5. DARE Accounts

During 2006, the former Sheriff's office maintained two bank accounts to be used for drug education. The beginning balance of the DARE Account was \$100. Total receipts were \$1,500 and total disbursements were \$1,530, leaving a December 31, 2006 balance of \$70. On February 2, 2007, a payment of \$70 was made to Joe Gaddie, the current Sheriff to transfer the balance of the DARE Account.

The beginning balance of the Drug Prevention Account was \$758. There were no receipts or disbursements during 2006. In July 2006, the former Sheriff transferred \$758 to the Drug Account to close the Drug Prevention Account.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable David Fields, Butler County Judge/Executive
The Honorable Kenneth Morris, Former Butler County Sheriff
The Honorable Joe Gaddie, Butler County Sheriff
Members of the Butler County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the former Butler County Sheriff for the year ended December 31, 2006, and have issued our report thereon dated August 22, 2007. The former Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former Butler County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the former Butler County Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the former Butler County Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However as discussed below, we identified a certain deficiency in internal control over financial reporting that we consider to be a significant deficiency.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the regulatory basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control over financial reporting. We consider the deficiency described in the accompanying comments and recommendations to be a significant deficiency in internal control over financial reporting.

- The Former Sheriff's Office Lacked Adequate Segregation of Duties



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Internal Control Over Financial Reporting (Continued)

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control. Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we consider the significant deficiency described above to be a material weakness.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the former Butler County Sheriff's financial statement for the year ended December 31, 2006, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations.

- The Former Sheriff Should Have Determined The Status Of Contract Labor
- The Former Sheriff Should Have Complied With Federal And State Wage And Hour Laws
- The Former Sheriff Should Have Invested Monies In Interest-Bearing Bank Accounts

This report is intended solely for the information and use of management, the Butler County Fiscal Court, and the Kentucky Governor's Office for Local Development and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

August 22, 2007

COMMENTS AND RECOMMENDATIONS

BUTLER COUNTY
KENNETH MORRIS, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2006

STATE LAWS AND REGULATIONS:

The Former Sheriff Should Have Determined The Status Of Contract Labor

The former Sheriff paid a deputy to perform security at the Morgantown Housing Authority. This deputy is not a sworn deputy and does not carry firearms or have arrest powers. He completes time sheets, is paid at a set rate per hour, works more than 100 hours per month, and does not participate in the county employee retirement system. He is hired indefinitely with no specific dates of employment and there is no written agreement between the Sheriff's office and this deputy.

The Auditor of Public Accounts has researched federal and state labor law and based on that review has determined that Sheriffs' Deputies performing statutory duties in their work environment are employees, not contract labor. Although there may be financial and budgetary savings associated with contract labor status that is not a factor in properly classifying this employee.

The former Sheriff should have treated this deputy as an employee or completed a Form SS-8 to be submitted to the Internal Revenue Service (IRS) for their evaluation.

Former Sheriff's Response: No Response.

The Former Sheriff Should Have Complied With Federal And State Wage And Hour Laws

The former Sheriff had a policy whereby compensation for transporting prisoners and marijuana eradication is paid to each deputy at the rate reimbursed by the State. Deputies are only allowed to transport prisoners and participate in marijuana eradication on their day off. The amount of time worked while deputies are transporting prisoners is not considered when calculating the total hours worked per week when considering overtime pay. In addition, no retirement has been paid on these earnings.

The Fair Labor Standards Act (FLSA) requires that all covered, nonexempt employees be paid overtime pay at a rate not less than one and one-half times the employee's regular rate of pay after 40 hours of work in a workweek. In addition, KRS 337.285 states that no employer shall employ any of his employees for a week longer than forty (40) hours in a work week at a rate not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. As opposed to paying deputies time and a half, the former Sheriff had a policy whereby compensation for transporting prisoners and marijuana eradication is paid to each deputy at the rate reimbursed by the State. This payment replaces overtime that may have been earned.

This policy appears to be contrary to federal and state wage and hour laws and deputies may be owed additional pay. When two different rates are paid during the same workweek, the half-rate is calculated using an average hourly rate for that week.

BUTLER COUNTY
KENNETH MORRIS, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2006
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

The Former Sheriff Should Have Complied With Federal And State Wage And Hour Laws
(Continued)

Furthermore, it appears that KRS 337.285(4) requires a cash payment for overtime unless upon the written request by an employee, without pressure or suggestion by the employer, the employee requests to be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2) hours for each hour the county employee is authorized to work in excess of forty (40) hours in a workweek.

The former Sheriff should have reviewed his personnel policy related to transporting prisoners and marijuana eradication and payment of overtime to assure compliance with KRS 337.285 and the FLSA. In addition, we will refer this matter to the U. S. Department of Labor, Kentucky Department of Wage and Hour, and the Kentucky Retirement System for review.

Former Sheriff's Response: No Response.

The Former Sheriff Should Have Invested Moneys In Interest-Bearing Accounts

The former Sheriff deposited funds into a noninterest-bearing account. KRS 66.480 states that the Sheriff may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction. Prudent financial management dictates that the Sheriff take advantage of earnings potential by depositing funds into interest-bearing bank accounts. The former Sheriff should have invested all funds into interest-bearing bank accounts.

Former Sheriff's Response: No Response.

INTERNAL CONTROL – SIGNIFICANT DEFICIENCY AND MATERIAL WEAKNESS:

The Former Sheriff's Office Lacked Adequate Segregation Of Duties

During our review of internal controls, we noted the following control deficiency pursuant to professional auditing standards:

- The former Sheriff's Bookkeeper collected money, prepared deposits, prepared daily checkout sheets, prepared reports, and prepared checks.

No compensating controls were noted to offset this control deficiency. Therefore, the control deficiency described above is considered a significant deficiency and a material weakness. The former Sheriff should have implemented the compensating controls noted below to offset this internal control weakness:

- The former Sheriff should have periodically compared a daily bank deposit to the daily checkout sheet and then compared the daily checkout sheet to the receipts ledger. Any differences should be reconciled. He could have documented this by initialing the bank deposit, daily checkout sheet, and receipts ledger.

BUTLER COUNTY
KENNETH MORRIS, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2006
(Continued)

INTERNAL CONTROL – SIGNIFICANT DEFICIENCY AND MATERIAL WEAKNESS:
(CONTINUED)

The Former Sheriff's Office Lacked Adequate Segregation Of Duties (Continued)

- The former Sheriff should have compared the quarterly financial report to receipts and disbursements ledgers for accuracy. The former Sheriff should have also compared the salaries listed on the quarterly report to the individual earning records. Any differences should have been reconciled. The former Sheriff could have documented this by initialing the quarterly financial report.
- The former Sheriff should have periodically compared invoices to payments. The former Sheriff could have documented this by initialing the invoices.
- The former Sheriff should have periodically compared the bank reconciliation to the balance in the checkbook. Any differences should have been reconciled. The former Sheriff could have documented this by initialing the bank reconciliation and the balance in the checkbook.

Former Sheriff's Response: No Response.

